

ENROLLED
COMMITTEE SUBSTITUTE FOR
House Bill No. 103

(Originating in the Committee on Education.)

[Passed March 7, 1947; in effect July 1, 1947.]

AN ACT to amend and reenact sections three, five, thirteen-a, fourteen, twenty-three, twenty-four and twenty-six, article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to add to such article a new section to be designated section thirty-five, all relating to the benefits and coverage provided for members of the state teachers' retirement system.

Be it enacted by the Legislature of West Virginia:

That sections three, five, thirteen-a, fourteen, twenty-three, twenty-four, and twenty-six, article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, and that a new section to be designated section thirty-five, be added to such article, all to read as follows:

Section 3. *Definitions.*—"Teacher" shall include the following persons, if regularly employed for at least half time service: (a) Any person employed for instructional service in the public schools of West Virginia; (b) principals; (c) public school librarians; (d) county superintendents of schools and assistant county superintendents of schools; (e) any county school attendance director holding a West Virginia teachers' certificate; (f) the executive secretary of the retirement board; (g) members of the research, extension, administrative or library staffs of the public schools; (h) the state superintendent of schools, heads and assistant heads of the divisions under his supervision, or any other employee thereunder performing services of an educational nature; (i) employees of the state board of education who are performing services of an educational nature; (j) any person employed in a non-teaching capacity by the state board of education, the board of governors of West Virginia university, any county board of education, the state department of education or the teachers' retirement board, if such person was formerly employed as a teacher in the public

22 schools; (k) all classroom teachers, principals, and edu-
23 cational administrators in schools under the supervision
24 of the state board of control.

25 "Members of the administrative staff of the public
26 schools" shall include deans of instruction, deans of men,
27 deans of women, and financial and administrative secre-
28 taries.

29 "Members of the extension staff" of the public schools
30 shall include every agricultural agent, boys' and girls'
31 club agent, and every member of the agricultural exten-
32 sion staff whose work is not primarily stenographic, cleri-
33 cal, or secretarial.

34 "Retirement system" shall mean the state teachers' re-
35 tirement system provided for in this article.

36 "Present teacher" shall mean any person who was a
37 teacher within the seven years beginning July first, one
38 thousand nine hundred thirty-nine, and whose member-
39 ship in the retirement system has been continuous.

40 "New entrant" shall mean a member of the retirement
41 system who is not a present teacher.

42 "Present member" shall mean a present teacher who is
43 a member of the retirement system.

44 "Total service" shall mean all service as a teacher or a
45 member of the retirement system since last becoming a
46 member and, in addition thereto, all his prior service.

47 "Prior service" shall mean all service as a teacher com-
48 pleted prior to July first, one thousand nine hundred
49 ~~forty-one~~.

50 "Average final salary" shall mean the average annual
51 salary earned as a teacher during the last fifteen years
52 of prior service, or if prior service is less than fifteen
53 years, the average annual salary for that period. If the
54 records for determining each annual salary needed cannot
55 reasonably be established by the retirement board, then
56 the term shall mean the average annual salary of the
57 teacher for years for which records are available.

58 "Accumulated contributions" shall mean the sum of all
59 the amounts deducted from the compensation of a con-
60 tributor and credited to his individual account in the
61 teachers' accumulation fund.

62 "Regular interest" shall mean interest at three per cent

63 compounded annually, or a higher earnable rate if ap-
64 proved by the retirement board.

65 "Refund interest" shall mean the interest on refunds
66 of the accumulated contributions and deposits payable
67 to former members, or to the beneficiaries of deceased
68 members, as provided in this article. The rate for refund
69 interest shall be the average annual rate of interest, cal-
70 culated to one decimal place, earned on retirement board
71 investments in effect at the end of the fiscal year for
72 which the interest is due, according to the sworn state-
73 ment of the fund custodian required by section nineteen
74 of this article. In no case shall interest be paid on contri-
75 butions received and withdrawn within the same year.

76 "Employer" shall mean the agency of and within the
77 state which has employed or employs a member.

78 "Contributor" shall mean a member of the retirement
79 system who has an account in the teachers' accumulation
80 fund.

81 "Beneficiary" shall mean the recipient of annuity pay-
82 ments made under the retirement system.

83 "Earnable compensation" shall mean the full compen-

84 sation actually received by members for service as teach-
85 ers whether or not a part of such compensation is received
86 from other funds, federal or otherwise, than those pro-
87 vided by the state or its subdivisions.

88 "Annuities" shall mean the annual retirement payments
89 for life granted beneficiaries in accordance with this ar-
90 ticle. All annuities shall be paid in twelve monthly pay-
91 ments in computing such monthly payments, fractions
92 of a cent shall be deemed a cent. Such monthly payments
93 shall cease with the payment for the month within which
94 the beneficiary dies.

95 "Member" shall mean a member of the retirement
96 system.

97 "Public schools" shall mean all publicly supported
98 schools, including normal schools, colleges and univer-
99 sities in this state.

100 The masculine gender shall be construed so as to in-
101 clude the feminine.

102 Age in excess of seventy years shall be deemed to be
103 seventy years.

Sec. 5. *Membership of the Retirement Board.*—The re-

2 tirement board shall consist of the following seven mem-
3 bers: (a) The governor, who shall be ex-officio chairman;
4 (b) the state superintendent of free schools; (c) the state
5 director of the budget; (d) the state insurance commis-
6 sioner; (e) and three members of the retirement system.

7 The teachers, who are now serving as board members,
8 shall serve the terms for which they were elected by the
9 members of the retirement system. The first and second
10 elections held after the effective date of this section shall
11 be for the four and five-year term respectively; thereafter,
12 all elections shall be for six-year terms. The manner and
13 mode of such election shall be determined by the retire-
14 ment board. All elective terms shall begin on the first
15 day of July.

16 Vacancies occurring in the terms of the elected member-
17 ship of the retirement board shall be filled within sixty
18 days for unexpired periods by the retirement board. If
19 the retirement board does not fill such vacancy within
20 sixty days, the chairman shall appoint a member of the
21 retirement system to serve for the remainder of the un-
22 expired term.

23 Before exercising any authority or performing any
24 duties as a member of the retirement board, each member
25 shall qualify as such by taking and subscribing to the oath
26 of office prescribed by section five, article four of the con-
27 stitution, the certificates whereof shall be filed with the
28 secretary of state. A suitable office or offices for the use
29 of the retirement board shall be provided by the board
30 of public works without cost to the retirement board.

Sec. 13-a. Resumption of Service by Retired Teachers.—

2 For the purpose of this section, reemployment of a former
3 or retired teacher as a teacher shall in no way impair
4 such teacher's eligibility for a prior service pension, or
5 any other benefit provided by this article.

6 Retired teachers, who qualified for an annuity because
7 of age or service, shall not receive prior service allow-
8 ance from the retirement board when employed as a
9 teacher and when regularly employed by the state of
10 West Virginia. The payment of such allowance shall be
11 discontinued on the first day of the month within which
12 such employment begins, and shall be resumed on the first
13 day of the month succeeding the month within which

14 such employment ceased. The annuity paid any such
15 teacher on first retirement resulting from the teachers'
16 accumulation fund and the employers' accumulation fund
17 shall continue throughout the governmental service and
18 thereafter according to the option selected by the teacher
19 upon first retirement.

20 Retired teachers, who qualified for an annuity because
21 of disability, shall receive no further retirement pay-
22 ments, if the retirement board finds that the disability of
23 the teacher no longer exists; payment shall be discon-
24 tinued on the first day of the month within which such
25 finding is made. If such retired teacher returns to service
26 as a teacher, he shall contribute to the teachers' accumu-
27 lation fund as a member of the system. His prior service
28 eligibility, if any, shall not be impaired because of his
29 disability retirement. His accumulated contributions and
30 interest which were transferred to the benefit fund upon
31 his retirement shall be returned to his individual account
32 in the teachers' accumulation fund, minus retirement pay-
33 ments received which were not supported by such con-
34 tributions and interest. Upon subsequent retirement, he

35 shall receive credit for all of his contributory experience,
36 anything to the contrary in this article notwithstanding.

37 The retirement board is herewith authorized to require
38 of the retired teachers and their employers such reports
39 as it deems necessary to effectuate the provisions of this
40 section.

Sec. 14. *Contributions by Members.*—At the end of each
2 month, every member of the retirement system shall con-
3 tribute four per cent of his monthly earnable compensa-
4 tion to the teachers' accumulation fund, not to exceed one
5 hundred dollars per school year. In the calculation of the
6 contribution, a fraction of a cent shall be deemed to be
7 a cent. The contributions shall be deducted from the
8 salaries of the members as hereinafter prescribed, and
9 every member shall be deemed to have given his consent
10 to such deductions. No deductions, however, shall be
11 made from the earnable compensation of a teacher, who
12 retired because of age or service, and then resumed serv-
13 ice as a teacher.

14 Payment by an employer to a member of the sum speci-
15 fied in the employment contract minus the amount of the

16 employee's contributions shall be deemed to be a full dis-
17 charge of the employer's contractual obligation as to earn-
18 able compensation.

19 Upon request and payment of one dollar service fee
20 by contributor the retirement board shall send the con-
21 tributor a statement of his accumulated contributions.
22 Membership dues in annual or voluntary organizations
23 shall be disbursed from such service fees, or from interest
24 on member's loans, upon approval by the retirement
25 board, anything in this code to the contrary notwithstand-
26 ing.

27 Each contributor shall file with the retirement board or
28 with the employer to be forwarded to the retirement
29 board an enrollment form showing the date of birth and
30 other data needed by the retirement board for the proper
31 operation of the retirement system. Upon notice from
32 the retirement board to employer that contributor has
33 failed to file such form as prescribed, the employer shall
34 withhold salary of contributor until needed form is filed
35 with the retirement board.

Sec. 23. *Withdrawal and Death Benefits.*—Benefits upon

2 death or upon withdrawal from service prior to retire-
3 ment under the provisions of this article shall be payable
4 as follows:

5 (a) Four months after a contributor quits service as
6 a teacher, he shall, on demand, be paid his accumulated
7 contributions plus refund interest up to the date of quit-
8 ting service, if he is then no longer under contract, verbal
9 or otherwise, to serve as a teacher; or

10 (b) If such contributor has completed twenty years of
11 total service, he may elect to receive at retirement age
12 an annuity which is the actuarial equivalent of his accu-
13 mulated contributions plus the employer's contributions.

14 Upon the death of a contributor, his accumulated con-
15 tributions plus refund interest shall be paid to his estate
16 or to such persons as he shall have nominated by written
17 designation duly executed and filed with the retirement
18 board.

Sec. 24. *Disposition of Accumulated Contributions.*—

2 When a contributor ceases to be a member because of
3 absence from service as a teacher, his accumulated con-
4 tributions with refund interest up to the date of quitting

5 service shall be returned to him, or to his legal repre-
6 sentative. Five years after cessation of membership, if
7 the contributor or his legal representative cannot be
8 found, his accumulated contributions with refund interest
9 shall be forfeited to the retirement system and credited
10 to the reserve fund.

Sec. 26. *Allowance Upon Retirement.*—Upon retire-
2 ment, a member shall be granted an annuity which shall
3 be the sum of the following:

4 (a) The actuarial equivalent of the contributions and
5 deposits of the member up to the time of his retirement,
6 with regular interest.

7 (b) The actuarial equivalent of the contributions of
8 the employer up to the time of the member's retirement,
9 which shall equal the sum in subsection (a) of this sec-
10 tion minus deposits with regular interest on deposits.

11 (c) Where prior service credit has been granted, an
12 allowance of one and twenty-five hundredths per cent of
13 the members average final salary multiplied by the num-
14 ber of years of prior service credited to him.

15 (d) The actuarial equivalent of the amounts that

16 would have accumulated under subsection (a) and (b) of
17 this section, if the member had contributed to his indi-
18 vidual account until he was fifty years old, at the annual
19 rate of his past actual contributions, but this subsection
20 shall apply only as additional income to members who
21 qualify for disability retirement before they are fifty
22 years old.

23 The disability annuities of all teachers retired for dis-
24 ability shall be based upon a disability table prepared
25 by a competent actuary, approved by the retirement
26 board.

27 For the purposes of subsection (c):

28 (1) An allowance for prior service shall in no case
29 exceed one-half of the member's average final salary.

30 (2) Average final salary shall in no instance be deemed
31 to exceed the sum of two thousand five hundred dollars,
32 or to be less than nine hundred and sixty dollars.

33 All annuities shall be paid in twelve monthly payments.
34 In computing such monthly payments, fractions of a cent
35 shall be deemed a cent. Such monthly payments shall
36 cease with the payment for the month within which the

37 beneficiary dies, and shall begin with the payment for
38 the month succeeding the month within which the an-
39 nuitant became eligible under this article for the annuity
40 granted; in no case, however, shall an annuitant, qualify-
41 ing for an annuity because of age or service, receive more
42 than four monthly payments which are retroactive after
43 board approval of annuity applications.

44 In case the retirement board receives data affecting the
45 approved annuity of a retired teacher, the annuity shall
46 be changed in accordance with such data, the change
47 being effective with the payment for the month within
48 which the board received the new data.

49 An annuity application shall be cancelled immediately,
50 if applicant dies before the retirement board approves
51 such application.

52 The provisions of this section shall apply to the com-
53 putation of all monthly allowances paid to beneficiaries
54 after the effective date hereof.

Sec. 35. *Additional Coverage.*—Nonteaching employees
2 shall mean all persons, except teachers, regularly em-
3 ployed for full time service by the following educational

4 agencies: (a) any county board of education, (b) the
5 state board of education, (c) the board of governors of
6 West Virginia University, (d) and the teachers' retire-
7 ment board.

8 Such nonteaching employees shall be entitled to all the
9 rights, privileges, and benefits provided for teachers by
10 this article, upon the same terms and conditions as are
11 herein prescribed for teachers.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Forest L. McRae
Chairman Senate Committee

R. L. Matthews
Chairman House Committee

Originated in the House of Delegates

Takes effect July 1, 1947 passage.

Howard Myers
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

Arnold M. Vickers
President of the Senate

John E. Amos
Speaker House of Delegates

The within Approved this the 13
day of March, 1947.

Clarence Meadows
Governor.



Filed in the Office of the Secretary of State
of West Virginia MAR 13 1947
WM. S. CLAYTON,
SECRETARY OF STATE